IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 10176 of 2007(J)

PETITIONER:

M/S.SHAFEEQUE CONCRETE PRODUCTS,
ERUMATHALA, ERNAKULAM DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER,
C.P.SUBAIRUDEEN.

BY ADV. DR.K.B.MUHAMED KUTTY (SR.)

RESPONDENTS:
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1. **THE COMMERCIAL TAXES OFFICER-III,**
   DEPARTMENT OF COMMERCIAL TAXES,
   ALUVA.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, ERNAKULAM.

3. **THE DISTRICT COLLECTOR, COLLECTORATE,**
   ERNAKULAM.

BY GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.10176 of 2007-J

Dated this the 26th day of March, 2007

JUDGMENT

The petitioner challenges Ext.P6 interim order directing him to pay one-third of the of the balance tax due for the purpose of granting stay of Ext.P1 assessment order, pending consideration of appeal against it. The petitioner submit, the unit is sponsored by the Khadi and Village Industries Board and therefore, the petitioner is entitled to get exemption from payment of tax under the relevant notification. The competent authority has also certified its eligibility for exemption. But, ignoring all this, the assessing authority has passed the assessment order. So, the petitioner attacks Ext.P6 and prays for stay on more liberal terms.

2. I heard the learned Government Pleader for the respondents also.

3. Since it is a matter pending before the appellate authority, I think it is not proper for this Court to go into the merits of the case. Since the petitioner has pleaded financial difficulties placed by the Khadi units, I feel that some leniency can be granted. If the petitioner pays one-fourth of the amount demanded on or before 31-3-2007, further recovery pursuant to Ext.P1 shall be kept in abeyance, provided the petitioner furnishes security for the balance amount within one month from today.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS